TENNESSEE
WORKERS:
DYING FOR A JOB

A Report on Worker Fatalities in Tennessee
2011 and 2012

In Honor of Workers’ Memorial Day
April 28, 2013

Sponsored by:

- Bridges to Justice
- Interfaith Worker Justice of East Tennessee
- Ironworkers’ Local Union 384
- Jobs with Justice of East Tennessee
- Knoxville-Oak Ridge Area Central Labor Council, AFL-CIO
- Laborers’ Local Union 818
Don Storey 44 (with son Jacob).
   April 5, 2011.
   Building Collapse

Howard Harless 70.
   February 8, 2012.
   Fall

Michael Tallent 27.
   December 31, 2012.
   Electrocution

Abimael Contreras 31.
   March 26, 2012.
   Fall/Drowning

Larry Chubbs 54.
   Fall/Machinery

Michael Wells, 57.
   February 23, 2012.
   Trench Cave-in
Report Authors

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David Linge is Professor of Religious Studies Emeritus at the University of Tennessee in Knoxville

Robert Woods is a Strategic Researcher with the Laborers’ International Union of North America

About the Sponsoring Organizations

**Bridges to Justice** is a worker and community alliance fighting to improve safety and working conditions for the men and women who build Tennessee’s bridges and other public infrastructure. The founding members -- Jobs with Justice of East Tennessee, Iron Workers’ Local 384, Interfaith Worker Justice of East Tennessee, and Laborers’ Local 818 -- share a commitment to worker safety and the wise use of public funds, and a belief that regardless of race, gender or immigration status, all workers have a right to a safe working environment and dignity on the job.

**Interfaith Worker Justice of East Tennessee** is a national coalition of faith communities that advocates for the well-being of all working people.

**Ironworkers’ Local Union 384** is an affiliate local of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers. Local 384 represents workers who specialize in heavy rigging, structural and reinforcing steel, welding, and bridge construction. Local 384 has played a major part in the construction of many iconic structures in Knoxville including World’s Fair Park, the Sun Sphere, the City County Building, and both Bank Towers on Gay Street.

**Jobs with Justice of East Tennessee** is a coalition of faith-based and community-based organizations, labor unions, and individuals committed to social and economic justice for working people and their families in East Tennessee.

**The Knoxville-Oak Ridge Area Central Labor Council, AFL-CIO**, is an umbrella organization for local unions representing workers in different industries across 13 counties in East Tennessee. Its mission is to improve the lives of working families, bringing economic justice to the workplace and social justice to the state and nation. For many years the CLC has sponsored
observances of Workers Memorial Day, often in cooperation with Interfaith Worker Justice of East Tennessee.

**Laborers’ Local Union 818** is an affiliate local of the Laborers’ International Union of North America. As a construction union, Local 818 represents construction workers, radiology workers, hazardous waste workers, asbestos abatement workers and ground/maintenance workers. Local 818 has been involved in projects with the Department of Energy, Department of Defense and the Tennessee Valley Authority (TVA). The Local has been a significant contribution to projects such as the Spallation Neutron Source at the Oak Ridge National Laboratory and the Uranium storage facility at the Y-12 security complex.
Dedication

This report is dedicated to all the working men and women in Tennessee -- both known and unknown to us -- who died on the job in 2011 and 2012.

In particular we are mindful of four men who have recently died on bridge projects in the state. Their four needless deaths brought dramatic attention to the problem of safety on Tennessee public works projects, and inspired the formation of the coalition that is one of the sponsors of this report.

One of the men, René Mendez, died in Memphis in November of 2010 on a bridge over the Wolf River. The other three workers -- John Womac and Solín Estrada-Jimenez, killed on the Henley Street Bridge in Knoxville in 2011, and Abimael Contreras, killed on the Highway 41 Bridge in Marion County in 2012 -- all lost their lives during the period covered by this report.

Our hope is that this report, and the larger efforts for workplace safety, will serve as a fitting tribute and memorial.

Henley Street Bridge project under construction
Downtown Knoxville, TN
January 19th 2013
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“No data without
Stories
No stories without data.”
--Popular saying of rural public health leaders
Introduction

For years people have been coming together in late April in cities across Tennessee to observe Workers Memorial Day, honoring and remembering workers who have died from workplace injury and disease. This report, the first of its kind in our state, is designed to support these observances in 2013. Its aim is to use the moment of Workers’ Memorial Day to bring together both hard numbers and human stories that can shed additional light on the very serious problem of workplace health and safety in Tennessee.

The numbers reported here, and the human tragedies described, demonstrate with great force that workers in our state continue to die of work-related injuries and illnesses at an alarming rate. They also reveal continuing challenges faced by agencies charged with enforcing health and safety laws and mandating better practices in the workplace, agencies like the Tennessee Occupational Safety and Health Administration (TOSHA). TOSHA is a “state plan” created by the Tennessee General Assembly under the part of the federal OSHAAct that gives states the option to enforce health and safety standards, as long as they are equal to or stronger than federal OSHA’s.

The most sobering thing about both the statistics and the stories is that deaths on the job are largely preventable. The overwhelming majority of the workers whose names you will read below did not have to die. We hope this report and the many efforts by workers themselves, by labor unions, worker centers, occupational health and safety professionals, responsible employers, public officials, and other concerned individuals, will help to bring these numbers down in future years. But serious changes are necessary for that to happen. This report proposes some of these changes.

We would like to acknowledge those who provided guidance or information used in this report. Among them are the families of several workers whose stories appear below. The trust and generosity of family members who agreed to talk with us and share knowledge about their loved ones has been remarkable.

Graduate students in Dr. Silver’s Public Health Law class at ETSU’s College of Public Health provided invaluable research and writing on specific topics covered in this report. Other contributors include the National Council for Occupational Safety and Health, United Support and Memorial for Workplace Fatalities, groups of occupational health and safety advocates in California, Massachusetts and North Carolina who shared with us their own reports on occupational fatalities in their states, and a number of individual safety and health professionals.

We are grateful to Knoxville Mayor Madeline Rogero and Knox County Mayor Tim Burchett for the joint proclamation in 2012 that marked the first official recognition of Workers’ Memorial Day in East Tennessee. We also want to publicly thank all the inspectors and other government employees who work each day to see that health and safety laws are observed, thereby upholding the basic human right to a safe place to work.
Executive Summary

**In Memoriam.** Federal OSHA and the state Workers’ Compensation Division of the Tennessee Department of Labor and Workforce Development keep different kinds of fatality records for Tennessee. They recorded 165 deaths of workers on the job in Tennessee 2011 and 2012. It is likely this combined list fails to capture the true extent of the problem

**What the Numbers Tell Us: Fatalities.** The transportation, construction and manufacturing sectors together accounted for more than half of the deaths. Death rates in agriculture for TN are double U.S. rates. Overall fatality rates in Tennessee are about 39% higher. Deaths due to “contact with objects or equipment” are consistently elevated. Tennessee’s overall health ranking among 50 states has not changed over the last 21 years, but its ranking on occupational fatalities has significantly deteriorated. In addition to several deaths of workers on public works projects (see below), a series of flash fires and explosions at an iron metal plant in Gallatin in 2011 killed five and injured three. **Injury and Illness** rates are consistently higher in Tennessee than the U.S. Specific sectors with higher rates include utilities, construction, mining, manufacturing, and hospitals. Total occupational illnesses are higher. By one estimate 5,600 to 7,200 cases of reportable cases of occupational illness occur each year in Tennessee.

**Public Works.** Four bridge construction workers were killed between November 2010 and March 2012 on projects for which the Tennessee Department of Transportation (TDOT) had contracted with Britton Bridge LLC or a closely affiliated company. The agency’s screening process fails to weed out unsafe contractors. Two Gatlinburg workers were killed when a treatment plant collapsed in April 2011, followed in February 2012 by the death of a worker on the demolition. Another contractor’s employee was killed doing work for the Knoxville Utility Board. TOSHA penalties have been paltry.

**Immigrant and Latino Workers.** Hispanic workers account for a disproportionate share of job fatalities, and immigrant workers are employed into some of Tennessee’s most dangerous and dirty jobs. Precarious status makes some especially vulnerable.

**Enforcement.** TOSHA fines are too low to effectively deter employers from maintaining unsafe working conditions. Issuance of “serious” and “willful” citations is lower than federal OSHA’s.

**Safeguards in the Conduct of Investigations.** Good investigators know about the unequal power relationship between workers and employers and the serious problems it creates for the integrity of investigations. Employee witnesses in workplace fatality investigations must be protected from undue influence, intimidation, or retaliation. TOSHA’s formal procedures recognize this principle, but the agency fails to consistently honor it in practice.

**Recommendations,** seventeen in all, are directed at the federal, state and local government, as well as employers.
In Memoriam
Workers Who Died on the Job in Tennessee in 2011 and 2012

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<tr>
<td>2/9/2012 Memphis</td>
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<tr>
<td>2/9/2012 Kingsport</td>
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<td>8/21/2012 Decherd</td>
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<tr>
<td>1/27/2012 Cookeville</td>
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We sincerely apologize if your co-worker, employee or loved one was omitted from this list, after dying at work in 2011 or 2012, or if other details are in error. This list is based on the only information obtainable from two government agencies, in time for this report.

Please help us correct the public record. Send accurate information to: fran.ansley@gmail.com
“Statistics
are people with the tears wiped away.”
--Dr. I.J. Selikoff (1915-1992) “Dr. Asbestos”

WHAT THE NUMBERS TELL US: FATALITIES

INTRODUCTION. Remember that these numbers represent people who went to work and never returned home. They lost their lives on the job, often due to the duties of their employment. The purpose of “enumerating” (or counting) and analyzing the available case data for workplace fatalities is to show aspects of the employee deaths -- their type of work, where they worked in Tennessee, and the situations in which they died. It’s a way to connect and relate to the people who lost their lives, instead of considering them a number. Also, Tennessee government, employers, workers, unions, safety professionals, and families may gain a better understanding of aspects of job safety and health that need improvement through stronger, more focused preventive efforts.

DATA SOURCES. Lists of fatalities in 2011 and 2012 were obtained from two different government sources: 1) federal OSHA and 2) the Tennessee Department of Labor and Workforce Development’s Workers’ Compensation Division. Combining the lists produced a compilation of 94 workplace fatalities for 2011 and 71 fatalities for 2012. Yet the 2011 total of 94 is still fewer than the final summary reporting of 120 fatalities from the Bureau of Labor Statistics’ website for 2011 (Table 1). 2012 data for Tennessee are not yet available through the Bureau of Labor Statistics website. Even the combined lists are unlikely to capture the full extent of the problem. (See the section on “Data Limitations”).

Figure 1. TN Workplace Fatalities by Industry, 2011-2012 (N=165)
TABLE 1. FATALITY RATES IN TENNESSEE AND U.S. 2008 TO 2010

<table>
<thead>
<tr>
<th></th>
<th>Total Fatalities</th>
<th>TN Rate*</th>
<th>National Rate</th>
<th>TN % above national average</th>
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<td>2011</td>
<td>120</td>
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<td>2010</td>
<td>138</td>
<td>5.4</td>
<td>3.6</td>
<td>50%</td>
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<td>2009</td>
<td>111</td>
<td>4.5</td>
<td>3.5</td>
<td>29%</td>
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<tr>
<td>2008</td>
<td>135</td>
<td>5.1</td>
<td>3.7</td>
<td>38%</td>
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<tr>
<td>4 yr total</td>
<td>504</td>
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<tr>
<td>3 yr Average rate</td>
<td>5.0</td>
<td>3.6</td>
<td>39%</td>
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*Per 100,000 Full-Time Equivalent workers (hours-based rate) Source: CFOI

DEATHS BY INDUSTRY. The industrial sectors with the largest numbers of reported workplace fatalities in 2011 were transportation, construction, manufacturing, service, and security/enforcement. In 2011, Federal Express Corporation contributed five workplace fatalities in the transportation sector. The four sectors with the largest numbers of deaths were the same in 2012; agriculture/forestry was in fifth place. The finance/insurance industry reported fatalities in 2011 but did not report any for 2012. Mining reported a workplace fatality in 2012, but none in 2011.

Data from the Bureau of Labor Statistics’ Census of Fatal Occupational Injuries is made available to the public with a time lag of about two years. Therefore, rates of fatal occupational injuries are not yet available for 2011 and 2012. However, a partial analysis of rates of fatalities in two industrial sectors, construction and agriculture for 2008-2010, show that Tennessee routinely exceeds the U.S. rate, sometimes by more than 100% (Tables 2 and 3). This is not the case in neighboring Virginia. Like Tennessee, Virginia runs its own “state plan” to enforce OSHA standards.

TABLE 2. FATALITY RATES FOR CONSTRUCTION (PER 100,000 FULL-TIME WORKERS)

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<td>10.9</td>
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<td>12.4</td>
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<tr>
<td>2008</td>
<td>12.5</td>
<td>9.2</td>
<td>11.8</td>
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Source: Census of Fatal Occupational Injuries (CFOI)

TABLE 3. FATALITY RATES FOR AGRICULTURE, FORESTRY, FISHING (PER 100,000 FULL-TIME WORKERS)

<table>
<thead>
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<th>TN</th>
<th>VA</th>
<th>National</th>
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<td>2010</td>
<td>55.5</td>
<td>22.6</td>
<td>27.0</td>
<td></td>
</tr>
<tr>
<td>2009</td>
<td>53.2</td>
<td>29.8</td>
<td>25.8</td>
<td></td>
</tr>
<tr>
<td>2008</td>
<td>68.3</td>
<td>39.1</td>
<td>28.4</td>
<td>TN &gt; 2 times U.S.</td>
</tr>
</tbody>
</table>

Source: CFOI
INCIDENT TYPE. Understanding the causes of worker fatalities can help with the development of effective strategies for preventing future deaths. Many different causes led to workplace fatalities in 2011 and 2012, such as improper safeguards, or the hazards of a particular job. The leading cause of workplace fatalities in both 2011 and 2012 was motor vehicle accidents. This is consistent with the transportation industry’s top rank for the number of workplace fatalities (Figure 2). Four of the workplace fatalities under the “burned” category were from the same corporation, which had three different fire/explosion incidents in 2011 (See “Killer Combustible Dust...” sidebar). A large number of fatalities were listed as “Unknown” or without a cause of death. Natural cause of death, typically a heart attack occurring at work, also accounts for many workplace fatalities. The available information did not allow the work-relatedness of each case to be assessed reliably, so we have not excluded heart attack cases in numbers reported here.

HOWARD HARLESS

Howard Harless worked as a crew leader for Ron’s Millwright Service. On the morning of Feb. 8, 2012, Harless and his crew were repairing the metal roof of the Five Rivers Industrial Complex on Snapps Ferry Rd. in Greeneville. As the crew was getting into position to move a 40 foot roofing panel, Harless stepped on an unsecured end of a panel, which gave way under his weight. He fell 23 feet to his death. Harless was 70 years old.

Born in Rogersville, Howard learned the millwright trade as a young man and practiced it throughout his adult life. For many years he owned his own millwright business. In 2004 he sold his business and retired to care for his daughter, Pamela, who was ill with cancer. When Pamela died Howard resumed working at the trade he loved. "He was a caring and compassionate individual who would do anything for others," said a co-worker at the scene of the accident. "We are completely devastated."

Howard was a family man. He and his wife, Peggy, raised two daughters and a son. He was active in his church, Highpoint Baptist Church in Meadowview, Va., where he regularly taught Sunday School. Howard served in the U. S. Army in Germany after graduating from high school.

Always active, Howard loved to work with his hands. He could build anything. Peggy has several dogs. She said she asked Howard to build them a house. Much to her surprise, he built them a real house, with miniature living room, bedroom, air conditioning, etc.! Howard was a devoted gardener. He and Peggy grew and canned much of the food that got them through the year.

He loved to hunt and fish. He owned a farm in the Rogersville area which he used as a camp for hunting in the fall and fishing in Cherokee Lake throughout the year.

TOSHA investigators found six serious safety violations at the worksite, including failure to use safety belts and lanyards to prevent falls, and not providing covers to roof holes and openings adequate to support the weight of workers, equipment and materials. Ron’s Millwright Service was fined a total of $14,800 for the violations.
TRENDS OVER TIME. Tennessee’s overall job fatality rate has remained constant in recent years, about 5.0 per 100,000 workers. This compares to 3.6 for the U.S. as a whole in 2011 (Table 1). So the state’s rate is 29% to 50% higher than the national rate. Transportation accidents are consistently the leading cause of death on the job in Tennessee (Table 4), with 39 such fatalities occurring in 2011 (the latest year for which BLS data are available). The second most frequent cause of death on the job in Tennessee is accidents involving “contact with objects or equipment” (Table 4). Consistently, a greater proportion of all job-related deaths in Tennessee is attributable to contact with objects or equipment, compared to rates for the U.S. as a whole (Table 5).

TABLE 4. CAUSES OF DEATH, WORKER FATALITIES IN TN, 2008-2011

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>Contact with Objects</th>
<th>Falls</th>
<th>Harmful Substance or Environment</th>
<th>Transport</th>
<th>Fire or Explosion</th>
<th>Violence*</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>120</td>
<td>24</td>
<td>15</td>
<td>5</td>
<td>39</td>
<td>10</td>
<td>26</td>
</tr>
<tr>
<td>2010</td>
<td>138</td>
<td>31</td>
<td>21</td>
<td>13</td>
<td>51</td>
<td>5</td>
<td>15</td>
</tr>
<tr>
<td>2009</td>
<td>111</td>
<td>24</td>
<td>12</td>
<td>6</td>
<td>48</td>
<td>3</td>
<td>18</td>
</tr>
<tr>
<td>2008</td>
<td>135</td>
<td>27</td>
<td>24</td>
<td>6</td>
<td>52</td>
<td>4</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>504</td>
<td>106</td>
<td>72</td>
<td>30</td>
<td>190</td>
<td>22</td>
<td>81</td>
</tr>
</tbody>
</table>


*Beginning 2011 this category includes animal-related injuries.
Larry Chubbs

Larry Chubbs worked at TAG Manufacturing in Chattanooga, a company that makes metal components of large construction equipment. On May 8, 2012 Larry was operating a blasting machine that cleans and descales large steel parts. He lost his life when an unsecured floor panel of a catwalk gave way and he fell into the machine's moving parts. The Chattanooga Times Free Press reported that "When workers found Chubbs' body in the machine, they found the panel from the catwalk with him." He was 54 years old.

A soft-spoken, handsome man, Larry Chubbs was born in Chattanooga and spent his entire life there. Larry and Annette, his former wife, raised two children, Frederick and Kimberly, both grown and living with their families in Chattanooga. He was friendly and caring—the kind of man that people turned to for help. In an outpouring of sympathy and grief, Larry's co-workers at TAG Manufacturing raised money to help his family in the aftermath of his death. Larry was a long-time member of Union Hill Baptist Church in Chattanooga.

Annette and Kimberly were quick to identify Larry as an athlete. He loved basketball and baseball, played both sports on school teams at City High, and continued to play throughout his life. Kimberly remembers all the times Larry took his granddaughter Shawnquell to the park to play baseball. Inspired by her grandfather, Shawnquell hopes to play basketball for the Lady Vols.

TOSHA fined TAG Mfg. a total of $15,850 for six serious safety violations, including failure to secure the catwalk floor panels, and six "nonserious" violations. Ironically, Larry's body was discovered by co-workers who came looking for him when he failed to show up for a safety meeting.

<table>
<thead>
<tr>
<th>TENNESSEE</th>
<th>UNITED STATES</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td># OF FATALITIES: CONTACT WITH OBJECTS OR EQUIPMENT</td>
<td># OF FATALITIES: CONTACT WITH OBJECTS OR EQUIPMENT</td>
</tr>
<tr>
<td>% OF TOTAL FATALITIES</td>
<td>% OF TOTAL FATALITIES</td>
</tr>
<tr>
<td>2011 24 20%</td>
<td>708 15%</td>
</tr>
<tr>
<td>2010 31 22%</td>
<td>738 16%</td>
</tr>
<tr>
<td>2009 24 22%</td>
<td>741 16%</td>
</tr>
<tr>
<td>2008 27 20%</td>
<td>937 18%</td>
</tr>
</tbody>
</table>

TABLE 5. DEATHS DUE TO “CONTACT WITH OBJECTS OR EQUIPMENT” ARE CONSISTENTLY HIGHER IN TENNESSEE COMPARED TO UNITED STATES
TN WORKERS LEFT BEHIND? Each year the United Health Foundation ranks the 50 states (plus the District of Columbia) on overall health status (Erwin et al, 2011). Highly publicized in the news media, these rankings are based on a composite of 24 measures of health determinants and outcomes. One of these is “occupational fatalities.” In Figure 3, Tennessee’s overall health rank among the 50 states does not show a statistically significant change over the time period of 1992 to 2012. Meanwhile, over this 21 year time period the state’s rank for occupational fatalities deteriorated significantly. In essence, working in Tennessee has become more deadly, compared to other states, at a time when the state’s overall health ranking hasn’t changed much. Recently, the trend for job fatalities is a striking mirror image of improvements in the state’s overall ranking that began around 2008 (shaded box, Figure 3).

FIGURE 3. TENNESSEE’S OCCUPATIONAL FATALITY VS. “OVERALL” 50-STATE HEALTH RANK

\[ \text{Better} \uparrow \]
\[ \text{Rank (1-50)} \]
\[ \text{Worse} \downarrow \]

\[ \text{Statistically significant trend: getting worse} \rightarrow \]

Using linear regression analysis, p=0.48 and p<0.001 for the lower and upper trend lines in Figure 3.
BY COUNTY. Most workplace fatalities occurred close to cities, where there are larger populations and more workplaces. In 2011, 36.8% of all workplace fatalities occurred in or near Memphis, Nashville, Knoxville, and Chattanooga. In 2012, 31.4% of all workplace fatalities occurred in or near these major cities (represented by Shelby, Davidson, Knox, and Hamilton counties). The large number of workplace fatalities in Putnam County is from one manufacturing company that had multiple flash fires resulting in five fatalities due to burning.

Recently, the Nashville-Davidson County-Murffreesboro metropolitan statistical area earned the dubious distinction of being ranked tenth on the list of “the deadliest cities” to work in (Walters 2013).
Figure 4. Number of job fatalities by county, 2011-2012. Flags show deaths at Hoeganaes facility (Gallatin, TN) and four Britton Bridge jobsites.
KILLER COMBUSTIBLE DUST FIRES AND EXPLOSIONS IN GALLATIN

The Hoeganaes Corporation in Gallatin, TN was the site of three flash fires in early 2011. Three employees survived their injuries, but five died of severe burns days or months later. Hoeganaes supplies iron powder to the auto industry to make metal parts.

Fine metal dust dispersed in air can explode if ignited by static electricity, hot surfaces, or open flames – which are ever present around machinery and tools. After studying the accidents that occurred on January 31 and March 29, the U.S. Chemical Safety and Hazard Investigation Board (CSB) held a news conference in Tennessee on May 11, 2011, reporting test results that showed how small amounts of Hoeganaes’ iron powder could produce powerful flash fires.

The third accident occurred 16 days later, killing three and injuring two. The shock of the initial explosion rained iron dust down on the work area, with fires igniting in the air. An escaping employee reported visibility of 3-4 feet, even with a flashlight in hand.

CSB’s investigation report revealed tons of accumulated dust up to four inches deep on most surfaces in the plant, resulting from inadequate sealing of equipment, dust collectors being “down for maintenance,” and ineffective housekeeping. The facility, which had ramped up production 550% since it was opened in the 1980’s, was not in compliance with widely used fire codes for combustible dust facilities. An insurance audit in 2008 had warned of the dangers.

Legislation pending in the U.S. House of Representatives (H.R. 691) would give federal OSHA one year to issue stronger standards to protect American workers from combustible dust explosions and fires. Similar legislation passed the House in 2008 by a large bipartisan majority, following the explosion at Imperial Sugar in Wentworth, GA which killed 14 workers and seriously injured 38.


INJURIES AND ILLNESSES

TRENDS IN INJURY RATES. Comparing state rates with overall U.S. rates (Table 6) reveals that the following employment sectors in Tennessee had consistently higher rates of job injuries from 2008 to 2011: utility construction; mining; manufacturing; metal forging and stamping; animal slaughtering; hospitals; and residential facilities (i.e., nursing homes). Bakeries in Tennessee had rising injury rates from 2008 to 2010, a trend that was not seen nationally.

**TABLE 6. JOB INJURIES IN TENNESSEE AND U.S. BY INDUSTRY (NAICS) PER 100 EMPLOYEES**

<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total, All Occupations</td>
<td>3.7</td>
<td>3.8</td>
<td>3.8</td>
<td>3.8</td>
<td>3.9</td>
<td>3.9</td>
<td>4.2</td>
<td>4.2</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Construction</td>
<td>3.7</td>
<td>3.9</td>
<td>3.8</td>
<td>4.0</td>
<td>4.1</td>
<td>4.3</td>
<td>3.7</td>
<td>4.7</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>--Utility systems</td>
<td>5.4</td>
<td>2.9</td>
<td>4.4</td>
<td>3.5</td>
<td>6.1</td>
<td>3.8</td>
<td>6.0</td>
<td>4.1</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>--Highway, street, bridge</td>
<td>6.5</td>
<td>4.4</td>
<td>2.3</td>
<td>4.8</td>
<td>3.7</td>
<td>4.6</td>
<td>3.1</td>
<td>5.3</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>All Mining</td>
<td>2.9</td>
<td>2.2</td>
<td>3.4</td>
<td>2.3</td>
<td>3.4</td>
<td>2.4</td>
<td>3.2</td>
<td>2.9</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>4.5</td>
<td>4.4</td>
<td>4.8</td>
<td>4.4</td>
<td>4.6</td>
<td>4.3</td>
<td>5.5</td>
<td>5.0</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>--Wood products</td>
<td>8.1</td>
<td>6.5</td>
<td>5.9</td>
<td>6.2</td>
<td>7.9</td>
<td>6.5</td>
<td>7.7</td>
<td>7.2</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>--Foundries</td>
<td>11.0</td>
<td>9.6</td>
<td>9.2</td>
<td>9.7</td>
<td>9.3</td>
<td>8.7</td>
<td>9.6</td>
<td>10.6</td>
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<td>X</td>
<td>X</td>
</tr>
<tr>
<td>--Metal forging stamping</td>
<td>10.1</td>
<td>7.0</td>
<td>9.7</td>
<td>7.5</td>
<td>11.3</td>
<td>6.6</td>
<td>9.0</td>
<td>8.8</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Food Manufacturing</td>
<td>5.8</td>
<td>5.6</td>
<td>5.8</td>
<td>5.8</td>
<td>6.4</td>
<td>5.7</td>
<td>5.5</td>
<td>6.2</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>--Animal slaughtering</td>
<td>7.7</td>
<td>6.4</td>
<td>8.4</td>
<td>6.9</td>
<td>9.1</td>
<td>6.9</td>
<td>8.3</td>
<td>7.5</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>--Bakeries</td>
<td>5.4</td>
<td>5.0</td>
<td>5.4</td>
<td>4.4</td>
<td>4.9</td>
<td>4.3</td>
<td>4.5</td>
<td>5.2</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Beverage producers</td>
<td>9.2</td>
<td>7.3</td>
<td>8.8</td>
<td>6.8</td>
<td>5.4</td>
<td>6.7</td>
<td>8.4</td>
<td>7.2</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Retail</td>
<td>2.9</td>
<td>3.9</td>
<td>3.5</td>
<td>4.1</td>
<td>4.1</td>
<td>4.2</td>
<td>4.1</td>
<td>4.4</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Transportation &amp; Warehousing</td>
<td>4.6</td>
<td>5.0</td>
<td>4.3</td>
<td>5.2</td>
<td>4.8</td>
<td>5.2</td>
<td>5.1</td>
<td>5.7</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>--Air transportation</td>
<td>7.2</td>
<td>7.3</td>
<td>8.6</td>
<td>8.1</td>
<td>10.4</td>
<td>8.5</td>
<td>9.7</td>
<td>8.7</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Financial Services</td>
<td>1.5</td>
<td>1.4</td>
<td>0.9</td>
<td>1.3</td>
<td>1.6</td>
<td>1.5</td>
<td>2.1</td>
<td>1.5</td>
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<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Education</td>
<td>2.1</td>
<td>2.1</td>
<td>2.8</td>
<td>2.2</td>
<td>2.3</td>
<td>2.4</td>
<td>2.4</td>
<td>2.3</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Health &amp; Social Care</td>
<td>4.9</td>
<td>5.0</td>
<td>5.0</td>
<td>5.2</td>
<td>5.9</td>
<td>5.4</td>
<td>5.6</td>
<td>5.4</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>--Hospitals</td>
<td>6.9</td>
<td>6.8</td>
<td>7.3</td>
<td>7.0</td>
<td>7.8</td>
<td>7.3</td>
<td>8.4</td>
<td>7.6</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>--Residential facilities</td>
<td>9.1</td>
<td>7.8</td>
<td>8.7</td>
<td>8.3</td>
<td>9.2</td>
<td>8.4</td>
<td>9.0</td>
<td>8.4</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

Notes: Manufacturing rate includes food and beverage rates.
NAICS is the National Industry Classification System used by federal agencies.
TRENDS IN ILLNESS RATES. Consistently, Tennessee had higher rates of all occupational illnesses than the U.S. as a whole from 2008 to 2011 (Table 7). Assuming 2,578,000 employees in Tennessee, about 5,600 to 7,200 cases of reportable occupational illness occur each year. Rates of occupational hearing loss are similarly elevated in Tennessee, compared to the nation. For hearing loss and skin diseases (dermatitis), the state’s rates increased, bucking the national trend from 2008 to 2011.

These numerical estimates of for all occupational illnesses, based on federal data and state employment rates, appear to be discrepant with the very small number of reported fatal cases on the “In Memoriam” list above. In fact, such discrepancies are consistent with under-reporting and lack of recognition of occupational diseases, compared to injuries. Also, the estimate for illnesses includes cases of hearing loss and skin disease, which are not fatal.

TABLE 7. REPORTABLE OCCUPATIONAL ILLNESSES IN TENNESSEE AND U.S. PER 10,000 EMPLOYEES

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>22.3 20.6</td>
<td>24.7 21.1</td>
<td>22.1 21.3</td>
<td>28.1 23.4</td>
<td>X</td>
</tr>
<tr>
<td>Poisoning</td>
<td>0.2 0.3</td>
<td>0.6 0.3</td>
<td>0.2 0.3</td>
<td>0.4 0.3</td>
<td></td>
</tr>
<tr>
<td>Skin Diseases</td>
<td>4.0 3.3</td>
<td>3.9 3.4</td>
<td>3.5 3.4</td>
<td>3.5 4.4</td>
<td>X</td>
</tr>
<tr>
<td>Hearing Loss</td>
<td>3.6 2.1</td>
<td>3.1 2.1</td>
<td>2.7 2.1</td>
<td>2.8 2.4</td>
<td>X</td>
</tr>
<tr>
<td>Respiratory</td>
<td>1.5 1.8</td>
<td>2.0 1.9</td>
<td>2.2 2.0</td>
<td>3.8 2.1</td>
<td></td>
</tr>
</tbody>
</table>

Note: Consistently higher in TN while US trend ↓


† (RATE/10,000) X (AVG. ANN. TN EMPLOYMENT). Rate per 10,000 is from “All Industries Data” at http://data.bls.gov/cgi-bin/dsrv?ii . Annual TN employment from 2008-2011 also from BLS. Lowest rate year and highest rate year used to calculate range: 5,600 to 7,200 cases.
Cold War Hero: Bill Van Buskirk (1924-2012)

NM Beryllium Machinist Featured in Training Video

Department of Energy workers everywhere lost a fighter and friend when Bill Van Buskirk died on May 9, 2012 of complications from chronic beryllium disease (CBD). He was exposed to beryllium as a machinist at Los Alamos National Laboratory in New Mexico where he worked from 1943 to 1979. With two brothers serving in World War II, Bill signed on to work with the Manhattan Project because a polio-related disability kept him out of the armed forces.

“He was a pioneer and a fighter.”

-- Glenn Bell (Oak Ridge)

Diagnosed with berylliosis in the early 1970’s Bill became an outspoken advocate for those whose health was taken from them by inadequate protections at DOE facilities. “I did my job,” he told government officials and 400 fellow citizens at a field hearing on compensation legislation in March 2000. “But someone didn’t do theirs.” He lent his name and story to the campaign for the Energy Employees Occupational Illness Compensation Program Act, and to a safety video now used throughout the DOE complex, so that today’s machinists might have better lives. (See weblink, above)

Forced from his precision craft, Bill pursued a passion for photography around his home in New Mexico, then in Lake Stevens, Washington where he and wife Barbara spent his last years together.

“We had correspondence in the early years of bringing the CBD issues to the public eye,” recalls Glenn Bell, the Oak Ridge leader, also a machinist dealing with the disease. “I feel proud to have been included with him in the beryllium information video. “He was a pioneer and a fighter.”
DEPARTMENT OF ENERGY WORKERS. A select group of Tennessee workers at high risk of occupational illness has benefited from the U.S. Department of Energy’s Former Workers Medical Screening Program. Former workers of Oak Ridge National Laboratory and the Y-12 plant are eligible for medical screening, and follow-up rescreening, by the:

- Building Trades National Medical Screening Program (BTMed)
- United Steelworkers’ Worker Health Protection Program (WHPP)
- Early Lung Cancer Detection Program (ELCD) and
- National Supplemental Screening Program (NSSP)

From 1993 to 2011, 11,648 free screenings of Tennessee DOE workers were performed. Congress appropriated funds for this program in 1993 in Section 3162 of the National Defense Authorization Act. The Energy Employees Occupational Illness Compensation Program Act of 2000 (amended in 2004), provides federal compensation payments to DOE workers with occupational diseases and their survivors. Some of these workers are also eligible for Tennessee state workers’ compensation.
Unnecessary Deaths on Public Works Projects

One of the most disturbing patterns that emerges from an examination of the workplace fatalities considered in this report is the circumstances under which workers were killed while engaged in building, repairing, maintaining and operating vital pieces of the public infrastructure in Tennessee. Several sets of events dramatize this problem with particular clarity over the past two years.

**Tennessee Bridges.** First, following the death of René Mendez on the Wolf River Bridge in Memphis in late 2010, three additional bridge workers were killed, two in 2011 and the fourth in 2012, all employed on projects where the Tennessee Department of Transportation (TDOT) had contracted with Britton Bridge LLC or with Mountain States, a close affiliate, to repair major bridges in East Tennessee. (Harris, Memphis Commercial Appeal, 2010; Wiley, Wilson Post, 2010; Hickman & Jacobs, Knoxville News Sentinel, Jan. 25, 2011, Jan. 26, 2011, May 26, 2011; Jacobs, Knoxville News-Sentinel 2012.) In each instance, TOSHA investigations revealed serious safety violations by Britton Bridge that were directly related to the deaths. (TOSHA Inspection Numbers 315-202-093, 315-366-112, 315-685-552, and 316-483-965.)

In each case, the penalties originally assessed were shockingly small, and in some instances they were settled for even smaller amounts than the initial assessment. In the case of René Mendez, the fine TOSHA proposed for the violations found was only $5,400. Britton Bridge contested the penalty, and the state eventually settled for $1,500 (TOSHA Inspection # 315-202-093). In the case of John Womac, TOSHA proposed $16,750 in penalties for all violations found on site that day (only $5,400 of which appear directly related to Womac’s death), and months later, the Department settled the entire case for $12,573 (TOSHA Inspection # 315-366-112; Alund, Knoxville News Sentinel, 2012). In the case of Solin Estrada-Jimenez, the third man killed on a Britton Bridge project in a little over five months, the penalties TOSHA proposed for the two citations it issued against Britton Bridge, both directly related to Estrada-Jimenez’ death, were $7,150 (TOSHA Inspection # 315-685-552). In the case of Abimael Contreras, the fourth man killed on a Britton Bridge project in less than a year and a half, the combined penalties proposed against both Britton Bridge and its sub-contractor were $13,750, $10,000 of which was for violations related to Contreras’ death. Britton Bridge contested its portion of even this small fine (TOSHA Inspections # 316-483-676 and # 316-483-965).

Britton Bridge or its close affiliate Mountain States gained primary contracts worth millions of dollars to repair these four bridges. They did so by gaining access to TDOT’s “prequalification list” and then submitting the lowest bid. Not only did TDOT procurement rules fail to spot the danger in time to prevent the first three deaths, but the agency continued to retain Britton Bridge on its existing contracts and even rewarded it with additional work when serious change orders were needed on the Henley Street project many months after the fourth death had taken place (Jacobs, Knoxville News Sentinel, 2012).
These deaths and their aftermath indicate that TDOT badly needs to reform both its procurement procedures and the way it monitors and manages projects after they are underway. Its present screening process for highway and bridge work fails to reliably weed out contractors with poor safety records. Its procedures for monitoring and disciplining its contractors fail to assure a culture of safety on the job. Its incentive structures have valued schedule and cost-cutting over worker safety.

TDOT has the authority and capacity to change many of these patterns. In fact, in response to worker deaths and resulting public outcry, it has taken some small steps in the right direction in the past year. We hope the needless deaths of four men on TDOT bridges will induce the Department to do more.

**Gatlinburg Wastewater Treatment Plant.** A second dramatic set of incidents took place in Gatlinburg, at the City’s wastewater facility. Part of the wastewater complex was a massive above-ground tank called an equalization basin, where raw sewage was held prior to treatment. On April 5, 2011, a 40-foot-high wall that formed one of the sides of the basin suffered catastrophic failure. It fell suddenly to pieces, crushing the adjacent flow control building, killing the two men who were at work there, and sending nearly 1 million gallons of raw sewage into the Little Pigeon River (Alund, Knoxville News Sentinel, April 2011).

Federal and state OSHA programs worked together to investigate the catastrophe, and the final report included an assessment by an OSHA expert in forensic structural engineering. The agencies concluded that the employer of the two victims, the company that ran the daily operations of the facility, was not at fault for what had occurred. Instead they put the blame on a defect in the wall going back to original construction. The Knoxville News Sentinel, described the OSHA findings as follows: “What the engineer called a ‘cold smooth joint’ led to leakage of acidic waste water across the joint, and ‘as a result, corroded the rebar splice couplers over a number of years.’” The basin, which dated from the 1990’s, was designed by a Knoxville engineering firm and built by a construction company from Charlotte, North Carolina (Alund, Knoxville News Sentinel, October 2011).

The construction company that built the basin in 1996, Crowder Construction Company, had been cited for numerous OSHA violations in the ten years leading up to the construction at the wastewater treatment plant (OSHA, 1995). Many of those violations were found to be “repeat” or “serious” violations. Despite these well-documented safety problems, the company won the basin project contract. This history raises the question: had stronger contracting policies been in place at the City of Gatlinburg during the bidding process, would Crowder have been disqualified from getting the project, given its poor safety record? At the very minimum, strong contracting protocols could have raised some red flags about the competency of the company to build the basin safely. The saga also reminds us that safe practices on public works projects are important both for the workers who are employed in building them, but also for workers who will later be employed in operating and maintaining them, and for the public that will use them.
In any case, the tragedy at the Gatlinburg wastewater facility did not end with the deaths of the two men buried when the basin collapsed. In the aftermath of that event, with two workers killed and an environmental calamity created next door to a precious national park, the next challenge facing Gatlinburg was the need to demolish the ruined basin and repair the site. In January of 2012 demolition work began. By February of that year a third worker had been killed on the site. Michael Wells was employed by Roberson Construction and Land Development a sub-contractor of NEO Corporation to whom Gatlinburg had awarded the demolition. He was cutting rebar while down in an improperly graded trench when the walls of the trench collapsed and he was buried in debris.

Trenching and excavation are known to be extremely hazardous when done without proper precautions. When trenching is carried out correctly, the hazards can be controlled. However, doing this work correctly costs time and money, and the temptation to cut corners is strong. Meanwhile the ability of authorities to find and monitor the often fleeting presence of trenching operations is limited. Because of these factors, TOSHA has a Special Emphasis Program on trenching and excavation. But in this case, as in too many others, that program did not succeed in stopping dangerous practices. TOSHA’s eventual inspection of the scene found that the trench was not properly graded, that there was no protection system to prevent cave-ins, and that the required daily trench inspection had not been performed. TOSHA found these to be serious violations and proposed a penalty of $4,000 for each of two violations.

Both of the tragic accidents at the Gatlinburg wastewater plant demonstrate how important it can be for local city and county governments to scrutinize the safety records of companies they hire for engineering, construction and demolition. Responsible contracting rules cannot prevent every injury or death, but they can seriously reduce them. Such rules are needed not only at the level of state entities like TDOT, but also at the level of local governments like the City of Gatlinburg. Strong safety standards for city contracting could save lives.
DON STOREY

Don Storey worked at the Gatlinburg Wastewater Treatment Plant on Banner Road in Gatlinburg. On April 5, 2011, he and a co-worker, John Eslinger, were working at the control panel in the Flow Control building when the east wall of the adjacent containment basin suffered a catastrophic collapse, flattening the Flow Control building and crushing both men.

Don was born in Connecticut and grew up in Florida, where he worked as a highly skilled cabinet maker. He was a single parent, devoted to raising his four children while living in Florida. In 2007 Don and Ashley, his fiance, moved the family to Tennessee. The newest member of the family, their son Jacob, was eighteen months old at the time of the accident. Jacob adored his father. They had a regular ritual in the morning where Jacob would wake up early with his dad, wait while he took his morning shower, and then sit down to orange juice and a bowl of breakfast cereal before watching from the door as Don left for work. Jacob often waited by the door and watched for his dad when it was time for him to return.

In order to have more time with his family, Don had transferred six months before his death from the Pigeon Forge Wastewater Treatment Plant to a first shift position at the Gatlinburg facility. Don was a valued worker and was encouraged by his supervisors to study for advancement in the company.

Don loved the outdoors. His family hiked and camped and took full advantage of living so near the Smokies. Don also had a passion for baseball, and played on his high school team. He was a life-long Red Sox fan, and passed his love of the game along to his family, boys and girls alike. Often on summer evenings the entire family would go to a baseball game together in nearby Sevierville or watch one on TV. In his last years, thanks to Ashley's influence, Don had become an avid golfer.

In their investigation of the accident federal OSHA was brought in to assess conditions at the plant. They found no problems with plant management by Don’s employer, but concluded that the catastrophic collapse of the wall was due to defects in the containment basin's concrete wall construction. Litigation is still continuing about those defects and who should bear responsibility for the accident. An obvious question: What kind of screening process does Gatlinburg -- and other cities across Tennessee -- use to select the contractors who design and build facilities? Could this disaster have been averted had greater attention been paid to the quality of the contractor during the bidding process for the basin construction?

To add to the tragedy of the basin collapse in which two workers lost their lives, another worker died while trying to repair the damaged site. The same question remains: What could the City of Gatlinburg have done differently during the bidding process to ensure greater attention to safety and worker protection? These stories are a harrowing reminder of what can happen when public tax dollars are awarded without adequately scrutinizing contractor safety records.
**KUB Wastewater Treatment Plant.** A third dramatic incident involving contractors hired to carry out the public’s work took place at another wastewater facility, this one owned by the Knoxville Utilities Board (KUB). Like the Gatlinburg case, this incident demonstrates the importance of responsible contracting at a local level. On the last day of 2012, Michael Tallent was working for W & O Construction Company, a contractor for KUB. He was killed by a bolt of electricity from a power line (AP, January 2013).

Statements made by a TOSHA representative to the Knoxville News Sentinel in the weeks after the accident painted a disturbing picture of W & O Construction Company and raised even more questions about whether the contractor’s safety record had been appropriately analyzed by KUB prior to its award of the contract. According to the TOSHA representative, records showed that W & O Construction had been cited for safety violations 11 times since 2009. Even more damming, the infractions were over “issues involving protective equipment, protection of potentially dangerous material or items, or training matters” according to the TOSHA official (Ballock, Knoxville News Sentinel, January 2013). Further analysis shows that many of these citations had been serious in nature (OSHA, 2013).

With so many documented safety problems involving equipment and training, why was W & O Construction able to win the contract with KUB in the first place?

**Conclusion.** We are not able to determine from the information presently available to us the extent of other fatalities that may have occurred on public works projects during the period covered by this report. In many cases the data provide only the name of a worker’s direct employer, so there is no easy way to find out whether more of the construction companies involved in some of the fatalities on the “In Memoriam” list were also working on contract to government entities. But the deaths recounted above are more than enough to demonstrate the importance of responsible contracting principles in government procurement, bidding, and supervision of the public’s work.
MICHAEL TALLENT

Michael Tallent had turned 27 only a month before the accident that took his life. Michael was working as a craneman's helper for W&O Construction Co. at the Kuwahee Wastewater Treatment Plant, a Knoxville Utilities Board facility on Neyland Dr. in Knoxville. on New Year's Eve, 2012. As the crew began to move a load of sheet metal pilings, the crane's main hoist line came into contact with overhead powerlines, resulting in Michael being struck by a fatal bolt of electricity.

Michael left behind a six-year-old daughter, Kylie Sue, whose mother and Michael had been separated for some time. For the last year of his life Michael had been living with his parents while he looked for work. He had been employed by W&O Construction Co. for about two and a half months when the accident occurred. Michael was a simple man. Generous and friendly, he was a hard worker who was well-liked by his co-workers. He was planning to train as a welder and looked forward to a career in the construction industry. He came from a tight-knit Knoxville family; he enjoyed helping his parents raise younger children and grandchildren. Michael's father, Rocky Tallent, says his son was an avid fisherman. He also loved to write poetry, and he left behind him a great many poems, which are a consolation to his family for this son they lost far too early.

The TOSHA investigation of the accident that took Michael's life charged W&O Construction Co. with ten serious safety violations and fined it a total of $24,000. The safety violations included allowing untrained and unqualified employees to work as qualified crane operators, riggers and signal persons. TOSHA investigators concluded that all ten safety violations "were specifically associated with Mr. Tallent's death."

After the accident, the Knoxville News Sentinel reported that W&O had been cited for TOSHA violations 11 times since 2009. That history certainly raises questions as to what KUB knew about W&O's deplorable safety record when it entered into a contract with that company, or what it could have known if it had looked into the matter.
**Immigrant and Latino Workers**

Migration into Tennessee by people from Latin America has been an important demographic development for the state in recent decades, although Latino residents (both immigrant and non-immigrant) still comprise only an estimated 3.9% of the population of the state (Kaiser 2011). Latino workers experience a disproportionate number of fatalities and serious injuries on the job in Tennessee. For instance, in the years 2008 through 2011, between 5.8% and 7.5% of all job fatality cases were Hispanic workers (Table 8). At least half of these deaths occurred in the state’s construction industry.

**TABLE 8. Deaths of Hispanic Workers in Tennessee, 2008-2011**

<table>
<thead>
<tr>
<th>Year</th>
<th># Fatal Job Injuries to Hispanics</th>
<th>% of All Job Fatalities in TN</th>
<th># of Hispanic Construction Worker Fatalities</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>9</td>
<td>7.5%</td>
<td>NA</td>
</tr>
<tr>
<td>2010</td>
<td>8</td>
<td>5.8%</td>
<td>6</td>
</tr>
<tr>
<td>2009</td>
<td>8</td>
<td>7.2%</td>
<td>4</td>
</tr>
<tr>
<td>2008</td>
<td>9</td>
<td>6.7%</td>
<td>6</td>
</tr>
</tbody>
</table>

Source: CFOI; NA = not yet available

Reasons for the disproportionate rate of injury and death suffered by Latino workers are complex. Because Tennessee is one of the nation’s “new destinations,” places where Latinos have begun settling in significant numbers only in recent decades, a relatively high proportion of Latinos living in the state are foreign-born. Immigrant Latinos are often employed in high-risk sectors like construction, demolition and agriculture where they are subject to greater-than-normal hazards. Further, Latinos who are immigrants, and especially those without legal immigration status, are particularly vulnerable to exploitation by unscrupulous employers. Except in the unusual event that they have access to advocates, immigrant workers are less likely to know and exercise their legal rights to demand a safe workplace. Far too many employers have shown they are willing to take advantage of workers whose immigration status limits their options and makes them fearful of taking action (Bernhardt et al, 2009).

Other factors that probably affect the disproportionate rate of illness and injury for Latino workers include issues of language access. Many employers hire immigrants, or contract with companies who workforce is heavily immigrant, but do not adjust their ordinary routines to take account of the new workforce. Without language-appropriate training and effective communication systems on the job, injuries and deaths are more likely to occur.

These trends are manifested not only in the numbers set out above, but also in the stories of individual workers killed during the period covered by this report. The deaths on TDOT bridge projects that are referenced at several points in this report provide one searing example. Three
out of the four men killed on these bridge projects were Latino immigrants. In all four cases TOSHA found serious safety violations. Lack of adequate training was cited in two of the cases.

ABIMAELE CONTRERAS

Abimael Contreras was 31 years old on the day he slipped from a barge into 60 feet of frigid water in Nickajack Lake in Marion County and was dragged to his death by a heavy tool belt. This incident in March of 2012 brought to four the number of men killed on TDOT bridge projects where the contractor Britton Bridge LLC was found responsible for serious safety violations related to the loss of life.

Originally from a small town called San Andres Tlalamec in Atlautla, Mexico where his widowed father and several siblings still live, Abimael came to the United States while still a teenager. In the years since his arrival, he stayed in close touch with family members on both sides of the border, but he had made Tennessee very thoroughly his home.

All his life Abimael was a person who made friends easily, and other people were often drawn to him. His sisters -- who live and work in Tennessee and whose lives were closely laced with his -- describe how many people came to the funeral home on the two days when a circle of birth family and family-by-marriage received friends there. They say there was no room for all those who came to pay respects, including friends, fellow players from his beloved soccer team, and co-workers from the decade he had spent as part of a construction crew on bridges and other jobs. Many were members of the Latino immigrant community near his home, and many others were native-born friends. Abimael was equally comfortable and connected in both communities.

Although he did not yet have biological children of his own, Abimael was a devoted stepfather to his wife’s children. He will be sorely missed by this Tennessee family he left behind. His Mexican relatives are also devastated to lose the son and brother they had not seen since he left home in his teens.

Something that causes his sisters special pain when they think about Abimael’s untimely death is the fact that he had come within a few months of achieving a long-held dream. He planned to leave his employer and go into business on his own. For years he had been saving and planning for the day he would open his own lawn-care business. His sisters had long worried about his job requiring such heavy work and about various ways they felt his employer did not treat its workers fairly. They were looking forward to his getting out from under all that and beginning to build his and his family’s future more on his own terms.
ABIMAEL CONTRERAS
Abimael Contreras tenía 31 años de edad el día que se cayó de un barco al agua fría de 60 pies de hondura del Lago Nickajack en el condado de Marion, arrastrado a la muerte por el peso de las herramientas que llevaba en su cintura. Este incidente que ocurrió en marzo de 2012 incrementó a cuatro el número de personas que se han muerto en proyectos de construcción de puentes auspiciados con fondos del Departamento de Transporte de Tennessee (TDOT) y dirigidos por el contratista Britton Bridge LLC, y en los cuatro casos se ha determinado que Britton Bridge LLC fue responsable de serias violaciones de seguridad que contribuyeron a la pérdida de estas vidas.

Abimael proviene del pueblo San Andrés Tlalalac del municipio Atlautla, México, donde todavía radican su padre enviudado y varios hermanos. Abimael vino a los Estados Unidos cuando tenía 19 años. Durante todos estos años siempre mantuvo relaciones estrechas con miembros de su familia, tanto en México como a este lado de la frontera, y consideraba a Tennessee como su hogar. Toda su vida Abimael era una persona que tenía muchos amigos, era muy amigable, y muchas personas se encariñaron de él. Sus hermanas, que viven y trabajan en Tennessee y que lo veían a menudo, tan entrelazados que eran en la vida cotidiana, relataron que los dos días del velorio su familia de nacimiento y la familia de su esposa recibieron tantas personas que no cabían en el lugar. Esas incluían sus amigos, los jugadores de su querido equipo de fútbol, y los trabajadores con quienes había compartido una década trabajando en puentes y otros proyectos de construcción. Muchos eran amigos de la comunidad de inmigrantes latinos que vivían cerca de su casa, pero varios eran amigos nacidos aquí en los Estados Unidos. Abimael se llevaba bien con todos y tenía amistades de las dos comunidades.

Aunque no tenía hijos propios, Abimael fue un hombre atento a los niños y se dedicó a ayudar en la crianza de los hijos de su esposa y de sus hermanas. Su familia en Tennessee lo echa de menos tanto. Y su familia en México, devastados, por haber perdido a un hijo y hermano que no había podido regresar a visitarlos desde que salió de su pueblo natal.

Algo que le causa mucho dolor a sus hermanas es pensar que la muerte de Abimael ocurrió cuando solo le faltaban unos meses para realizar su sueño de dejar de trabajar en construcción y comenzar su propio negocio. Por años estuvo ahorrando y acumulando la maquinaria necesaria para comenzar un negocio de cortar el pasto y mantener las yardas. Sus hermanas ya tenían muchos años de estar preocupadas por el trabajo pesado de su hermano y las diferentes maneras en que el empleador no trataba bien a sus trabajadores. Ellas esperaban ansiosamente ese momento cuando Abimael iba a poder salir de todo eso y comenzar a crear un futuro nuevo para él y para su familia.
Two other Latino construction workers fell to their deaths in 2012 on a site in Charleston, Tennessee, outside of Chattanooga. There Wacker Chemie AG, a German multinational chemical manufacturer, is building a $2 billion polysilicon plant. Hugo Mendoza and Rodrigo Mena-Trinidad were employed by Baker Concrete, a sub-contractor on this giant project. They were about six hours into their 4 pm to 2 am shift, working some 85 feet in the air on scaffolding, when the scaffold collapsed and they both fell to their deaths. As recently reported by local news media, TOSHA has proposed fines of $10,800 against Baker Concrete for failure to provide workers with adequate training and for failure to properly set up, test and support the special scaffolding system that was in use on the site. The same story reported that three of the employees working on the system were new hires, and the superintendent over the crew had only begun working on the night shift two weeks prior to the accident (Kalor, Cleveland Daily Banner, 2013).

It is unacceptable that we should run our state’s economy or should build and maintain its infrastructure in a way that takes unfair advantage of a particular group of people who have few tools at their disposal to defend their rights or to alert authorities to dangerous conditions at their places of work. Federal OSHA, and the federal Department of Labor more generally have begun in recent years to recognize the widespread nature of such conditions and have taken important steps to address the difficulty of enforcing labor standards in immigrant-heavy sectors of the economy.

Among these steps are significant outreach and education of employees and employers, and a greater emphasis on overcoming language barriers. But the measures adopted also reflect a growing understanding by federal authorities of the need to offer protection to immigrant workers who are willing to step forward and bring complaints. If workers are afraid that deportation will result if they seek to improve health and safety conditions on the job, few will step forward. If employers are allowed to use threats of deportation to keep their employees in line, then abuses and dangerous conditions will flourish.

Awareness of these dynamics has increasingly led federal immigration authorities to grant immigrant whistleblowers a special visa with work authorization, at least in certain situations where employer abuses have been severe enough to involve criminal conduct. These programs are still quite limited, and not always well understood, but it is hoped that strengthened versions of these programs will be included in federal immigration reform if such reforms indeed come to pass. Other important elements to such a reform include: a pathway to citizenship for most undocumented workers now in the country who are presently unable to adjust their status; expanded access to immigration relief in the future for immigrant workers who seek to improve their conditions of work and reduce dangerous conditions on the job; and more aggressive enforcement of labor rights and labor standards for all workers -- immigrant and native-born alike -- especially for those in low-wage and dangerous occupations.

Some of these protections have already been proposed or discussed in Congress. A program proposed to Congress in 2011 would provide important immigration relief for immigrant whistleblowers (POWER Act, 2011), and a bi-partisan proposal for immigration reform recently
proposed by a group of eight U.S. Senators includes the POWER Act and other provisions aimed at preventing the creation of a super-exploitable underclass.

In the meantime, independently of immigration reform, concerns about intimidation and retaliation against immigrant workers by employers who seek to use immigration law in improper ways have also led the federal Departments of Labor and Homeland Security to enter into a series of agreements that seek to “deconflict” their missions. These agreements have begun to construct a firewall between the two arms of federal policy they represent: labor standards enforcement by DOL on the one hand, and immigration enforcement by DHS on the other (Smith and Cho, 2013).

Unfortunately, the Tennessee General Assembly has begun to involve state agencies in the enforcement of federal immigration law to an increasing degree, and they have shown little understanding of the significant problems this involvement can create for the enforcement of many different kinds of labor standards, but particularly for the enforcement of workplace health and safety rules. To the contrary, rather than deconflicting these missions or building a firewall between labor enforcement and immigration enforcement, the General Assembly has set the stage for ever-increasing conflict and entanglement. They have tasked the Department of Labor itself with the work of enforcing new programs that require employers to use systems that are supposed to detect workers who do not have proper work authorization (Tennessee Public Chapter 436). This new set of responsibilities further drives a wedge between immigrant workers and the officials whose job is to protect them from workplace hazards. Such developments make the work of agencies like TOSHA significantly more difficult.

Many parts of the state government could contribute toward improving this situation in various ways. The General Assembly could pull back its ill-considered venture into federal immigration enforcement. It could instruct the Tennessee Department of Labor to create a strong firewall and could encourage it to do more to protect all workers, including immigrants, from danger on the job.

TOSHA itself, with support from the larger Tennessee Department of Labor, should undertake a serious effort to understand and address the problem, including an assessment of the ways their own practices may contribute to it. Key steps should include:

- outreach to immigrant workers with information about job hazards, their rights under OSHA, and other rights to which all workers are entitled;
- outreach to employers about the requirement that safety training for employees with limited English proficiency must be appropriately designed and delivered;
- pointed training and support for TOSHA investigators to better assure the effectiveness of investigations in immigrant-heavy workplaces;
- construction of a firewall between all activities aimed at protection of workplace health and safety and other activities of the Tennessee Department of Labor related to enforcement of immigration law; and
- assessment of maximum fines on those employers who fail to provide adequate training
and a safe working environment to these particularly vulnerable workers.

Crucial to any effort will be the hiring and training of bilingual investigative staff who are familiar with the realities of the immigrant workforce and with approaches and procedures that are well-designed to deal with those realities.
**Workplace Violence**

Numerous workplace homicides occurred in Tennessee in 2011 and 2012. These included:

- At least four law enforcement or private security workers killed by suspects
- One business owner shot by an employee
- One retail worker shot by a customer
- Principal stabbed to death by a student

Preventing workplace violence is the focus of a growing number of policies and intervention programs.

**The FBI’s National Center for the Analysis of Violent Crime** (NCAVC) defines workplace violence broadly to include “domestic violence, stalking, threats, harassment, bullying, emotional abuse, intimidation, and other forms of conduct that create anxiety, fear, and a climate of distrust in the workplace” (Ragala and Isaacs, 2002). NCAVC’s categorization scheme (Table 9) is widely used.


Employers are not generally held liable under civil law for acts of workplace violence that are random occurrences, only those that are characteristic of an area of employment. Yet employers may face liability for “…negligence, negligence in hiring and retention, failure to warn potential victims, and failure to repudiate incidents of workplace violence” (Barish 2001).

**TABLE 9. NCAVC’s Categories of Workplace Violence**

<table>
<thead>
<tr>
<th>TYPE</th>
<th>DEFINITION</th>
<th>RISK FACTORS</th>
<th>EXAMPLES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Criminals, with no connection to the workplace. Enter to commit robbery or another crime.</td>
<td>Night work, Isolated situations, Access to money</td>
<td>Taxi drivers, Night retail clerks</td>
</tr>
<tr>
<td>2</td>
<td>Directed at employees by customers, clients, patients, students or others served by an institution</td>
<td>Interact with risky individuals</td>
<td>Police officers, Mental health workers, Nurses</td>
</tr>
<tr>
<td>3</td>
<td>Present or former employee. Against co-workers, supervisors or managers.</td>
<td>Based on personal relationships.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Non-employee has a personal relationship with an employee (e.g., abusive spouse)</td>
<td>So anyone in any job may be at risk</td>
<td></td>
</tr>
</tbody>
</table>
Type 1 incidents are the focus of OSHA’s *Recommendations for Workplace Violence Prevention Programs in Late-Night Retail Establishments* (OSHA 2009). Straightforward and easy to understand, this voluntary guidance document provides recommendations that are cost- and time-effective.

**Types 2, 3 and 4** incidents are addressed in the Tennessee Department of Children’s Services document *Workplace Violence Prevention Guidelines*. It covers warning signs and risk factors, types of forbidden actions, environmental controls, requirements of management, reporting procedures, prohibition of weapons by the department, evaluation and the referral of possible at-risk individuals (TDCS 2011).

An epidemiologic study in North Carolina interviewed managers of establishments struck by workplace homicide 6+ months later to identify prevention devices that lowered the odds of homicide. Those measures which showed a reduction in risk were locked and secured entrances, and the presence of at least one security device. Alarms to alert authorities had the largest effect (Gurka et al, 2012).

Leading programs to stem workplace violence are based on regulations in New York and Washington for public employees (12 NYCRR 800.6) and late night retail workers (WA Admin Code 296-832-300), respectively, and an Oregon statute for health care (OR H.B. 2022, 2007).


**Enforcement**

TOSHA fines are too low to effectively deter employers from maintaining unsafe working conditions. TOSHA imposed an average fine of just $880.60 for a “serious” violation -- one that presents the potential for serious bodily harm to an employee. This compares with $2,132.60 when federal OSHA issues a serious citation. Both the federal OSHAct and Tennessee state law limit maximum fines to a low level ($7,000). In fiscal year 2011, TOSHA fines were reduced 28.9% on average in a bureaucratic process that considers the employer’s “good faith” efforts, among other factors (FAME Report, 2011).

**TOSHA is far less likely to cite employers for “serious” violations of the OSH Act than is federal OSHA.** Just 47% of TOSHA citations are “serious,” compared to 73% for federal OSHA. In 2011 50% of violations were deemed “other than serious” by TOSHA compared to 22% by Federal OSHA. “Other than serious” violations carry lower penalties (FAME Report, 2011).

**Federal OSHA is seven times more likely than state TOSHA to issue “willful” citations.** Only a tiny fraction (0.1%) of violations were judged “willful” -- an “intentional violation or plain indifference” to the law (FAME Report, 2011).

**Strong enforcement also requires resources, and TOSHA needs more adequate support if it is to succeed.** TOSHA needs more investigators, and more of them should be bilingual.

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**FATHER OF TWO KILLED IN BUCKET TRUCK: $9,000 FINE CONTESTED**

In the summer of 2012, Bruce Lee Marion (29), father of two, was killed while hanging cable from a bucket truck. A truck drove through the work area and became caught on the cable, causing the cable to fatally strike Marion. J&R Cable of Huntsville was issued three violations: not having a person trained in first aid on the crew, not having a flagger or other traffic control device in the area, and not requiring the employee to wear a harness in the bucket truck. As a result of the death J&R Cable was fined approximately $9,000, which they are now contesting.

MICHAEL WELLS

On Feb. 23, 2012, Michael Wells was working on a demolition crew at the Gatlinburg Wastewater Treatment Plant. The crew was removing the remains of a huge concrete containment basin that had collapsed catastrophically in April, 2011, killing two workers. Michael was cutting rebar in a trench when the earthen walls of the trench gave way. He was struck and killed by falling debris as the trench collapsed on him. He was 57 years old.

Michael was a native of Asheville, N. C. and spent his entire life there. He was a loving family man. Marjorie, his wife, has two daughters, Cynthia and Rebecca, by a previous marriage. They were the apple of Michael's eye and he always referred to them as "his daughters." As a young man Michael had served in the U. S. Navy. He was an active member of Riverside Baptist Church in Asheville. Marjorie said that Michael equally loved fishing and gospel music. Michael and Marjorie loved to travel about Western Carolina attending auctions.

Peggy described her husband as a generous, giving man. He had willed his body to a medical school in the hope that he could help others through medical research.

Given the distance between Asheville and Gatlinburg, Michael stayed overnight in Gatlinburg during the work week. The weeks before the accident had been stressful ones in which Marjorie had undergone surgery and been hospitalized. She had been released from the hospital in time for the couple to spend the weekend before the accident at home together. On Monday, while family stayed with Marjorie, Michael returned to work in Gatlinburg. On Thursday morning, before he left for work, Michael called home to wish Marjorie a beautiful day and to tell her he loved her. It was the last time she would hear her husband's voice.

TOSHA investigators charged Michael's employer, Roberson Construction and Land Development, Inc, of Enka, N. C., with three serious safety violations, including failure to provide a protective system to safeguard against collapse of the trench walls. The company was fined a total of $7,200.
CRIMINAL PROSECUTION OF JOB FATALITIES

Legal Background. For a criminal conviction under Section 17(e) of the OSHAct, or similar sections of state plans, prosecutors must demonstrate that: (1) the employer willfully violated a specific OSHA regulation; and (2) the employer's willful violation caused the death of an employee. The burden of proof on prosecutors is great, and the maximum penalty employers or companies face is only a misdemeanor ($10,000 fine and 6 months’ imprisonment).

Statistics. In the five years between 2003 and 2008, OSHA investigated 9,800 workplace fatalities. Only 237 were considered eligible for referral to the U.S. Department of Justice (DOJ). OSHA referred just 50 fatalities to DOJ with ten cases continuing on to criminal prosecution (Senate Hearing, 2008). Prosecutors have declined to pursue the majority of OSHA cases. As of 2008, only eight had resulted in prison sentences. (Criminal Prosecutions of Workplace Fatalities, 2008). It is generally believed that DOJ declines to prosecute the majority of cases because of the misdemeanor status of the penalties (Barrett, 2011).

Tennessee. To date, no criminal prosecutions for workplace fatality incidents have been pursued within the State of Tennessee. But cases in neighboring states provide a window into the kinds of facts that can get prosecutors’ attention.

Georgia Case of MIT Tank Wash, a Savannah tank cleaning company. Company owner Robert Swing had on previous occasions received warnings from OSHA about the need to purchase proper safety equipment for his employees. Despite these warnings and the potential for violations, Swing never procured the equipment. On May 11, 1993, an employee entered a tank alone, without any safety equipment, and died from toxic vapors. After a two year investigation, in June of 1995 Swing pled guilty to a willful violation of OSHA safety regulations. He was sentenced to six months in jail, one year of probation, and a fine of $190,000. This case was tried in Georgia using federal OSHA regulations because Georgia did not have an OSHA state plan (Criminal Prosecutions of Workplace Fatalities, 2008).

South Carolina Case of South East Towers, a communications tower company. An employee fell 150 feet to his death while retrieving equipment from a communications tower in Jacksonville, Florida. Smith and Dennis, the two owners, attempted to hide the fact that this employee was not wearing proper safety equipment when he fell. Both pled guilty to a willful violation in April 1997. They were sentenced to three months in prison, and together were ordered to pay roughly $7,300 for the employee’s funeral. This case was tried in South Carolina using state-plan regulations (Criminal Prosecutions of Workplace Fatalities, 2008).
Need for Stronger Safeguards in the Conduct of Investigations

Because of the fundamentally unequal power relationship between workers and employers, workplace fatalities often present circumstances that can create serious problems both for the protection of workers and for the integrity of investigations. In an economy where good jobs remain scarce in many sectors, the security of workers and their families often depends on their staying in an employer’s good graces. Some call this “paycheck vulnerability.” Especially when employees are not represented by a union, or when they have particular reasons such as precarious immigration status that might make them more than ordinarily fearful about raising complaints, they must think long and hard before they decide to bring a question about health and safety to their employer or to the authorities, even if they know it is their legal right to do so.

Good investigators understand such dynamics, and they often do what they can to assure that they get to the truth of the matter at hand. But a close reading of several TOSHA fatality investigations related to cases discussed in this study suggests that investigators need perhaps more training, and definitely more support from their superiors and from agency procedures, before they will be able to make sure they are in a position to carry out investigations well designed to get all the relevant facts.

In those cases where investigators do a good job of documenting details about the course of their investigations, TOSHA’s own files can provide an important window onto problems that may occur if effective safeguards are not in place and fully functioning. For instance, TOSHA investigation reports reveal that in at least three of the four recent fatality investigations carried out by the agency after workers died on TDOT bridge projects, attorneys for the contractor Britton Bridge LLC, were allowed to sit in on interviews with employee witnesses. The owner himself was allowed to observe the interview in at least one of these investigations. (See reports on TOSHA Inspections Number 315-202-093 (René Mendez), 315-366-112 (John Womac), and 316-483-965 (Abimael Contreras)).

Tolerating the presence of such parties is directly contrary to TOSHA’s own protocols, as well it should be. That manual wisely provides that “interviews of employees will be conducted in private,” and that TOSHA investigators “are entitled to question such employees in private regardless of employer preference.” It further provides that “Interference with [an investigator’s] ability to conduct private interviews with employees includes ... attempts by management officials or representatives to be present during interviews.” (TOSHA Field Operations Manual, 2009, Section VII.I.4, p. 3-15.)
The reasons for such a rule are both important and obvious. Confidentiality helps to prevent intimidation of witnesses or retaliation against them, a worthy goal for many reasons. But a rule like this protects more than the individual workers themselves. It operates to assure the integrity and accuracy of the investigator’s findings. In a case where employees themselves are not protected by a collective bargaining agreement, and where they are not represented in the course of the TOSHA investigation by a union, by counsel of their own, or by any other employee representative, the strict maintenance of such confidentiality rules is particularly important. Employees in all four of the bridge death cases lacked such protection or representation. In addition, Latino immigrant workers were involved as victims and/or witnesses in all four cases as well.

Despite these danger signs, TOSHA investigators somehow allowed this dangerous and substandard practice to go forward. In some cases, at an employer’s or attorney’s request, they even postponed interviews until days after the fatality, thereby further compromising the reliability of evidence eventually gathered. In at least one case, the decision to allow the owner and his attorneys to be present at employee interviews was explicitly approved by TOSHA authorities in Nashville who were consulted by telephone from the scene.

Situations like those described above should not be allowed to develop. No investigator should feel any ambiguity about whether this was proper procedure; no investigator should be left without ready tools to stop such interference; and no investigation should be allowed to proceed to completion on the basis of findings made under such compromised and suspect conditions.

Without strong rules, however, cases like these are likely to occur whenever employers are aggressively represented by counsel while their workers do not have the assistance of a lawyer, or an organization such as a union, worker center, or other worker rights group that could competently and energetically represent them without a conflict of interest. Unfortunately, these are precisely the circumstances that exist more often than not in Tennessee workplaces where a worker is killed on the job. The vast majority of TOSHA investigations happen in situations where employees are represented by no one.

As important as it is for TOSHA to more consistently prevent employers from gaining entry to worker interviews, that safeguard standing alone would not be sufficient to preserve the integrity of TOSHA inspections. For instance, when interviews are conducted on the employer’s job site, even if the employer or the employer’s attorney is not allowed to sit in the interview, the situation involves many opportunities for attempts to influence, intimidate or control. TOSHA’s present protocols provide that interviews “may” be conducted off-site, but they treat that option as an exceptional one. A preferable rule would be to treat off-site interviews and the fuller privacy they afford as standard practice for fatality investigations, and to require that deviations be justified.
Another factor that may bear on these issues is language proficiency. A key shortcoming of the TOSHA program is the lack of bilingual staff and dependence on telephone interpretation services. If the investigator dispatched to the scene of a fatality is not proficient in the languages spoken by key worker witnesses at the job site, many problems can arise. Given the demonstrable presence of Latino immigrant workers in many of the state’s most dangerous occupations, and the disproportionate number of Latino immigrants who suffer serious injury and death on the job, the need for more TOSHA investigators fluent in Spanish is clear.
DATA LIMITATIONS

LIMITATIONS OF OCCUPATIONAL FATALITY DATA FOR TENNESSEE. Effective reporting systems are vital for preventing future workplace fatalities. However, reporting in the State of Tennessee is not completely straightforward. Each year some fatalities are not reported on state and national records or they are misreported as non-fatal injuries or accidents. Workplace fatality reporting is most reliable when an employee death occurs on the worksite, and less reliable when employees are hospitalized due to workplace injury and die later.

One of the lists used as the basis of this report was compiled by the state Workers’ Compensation Division. However, there are several reasons why a workers’ compensation claim may never be filed, even after a death on the job. The trend toward contingent labor, workers who are not employees but “independent contractors” in some of the most dangerous industries like transportation and construction, means the survivors of such workers killed on the job might lack standing to file a workers’ compensation claim. Other dangerous work sites, such as small agricultural operations, may be exempt from the requirement to carry workers’ compensation insurance. And some survivors may be unaware of their rights, erroneously believing that filing a workers’ compensation insurance claim is tantamount to bringing a negligence lawsuit. Moreover, Section 50-6-242 of the Tennessee Code Annotated bars undocumented immigrants from receiving workers’ compensation benefits.

There may also be differences between deaths recorded by TOSHA and federal OSHA. The basic requirements are set forth in a federal regulation for collecting and reporting health and safety statistics in states that operate OSHA-approved occupational health and safety programs (29 CFR 1904.37), and in the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health (Chapter 0800-1-3: Occupational Safety and Health Record-Keeping and Reporting). All fatalities, including those due to natural causes, must be reported by telephone to the nearest TOSHA office within eight hours of the incident. Information is entered onto an OSHA-36 form. This information is then used to determine whether an investigation of the workplace is required.

Employers are not required to report single hospitalizations of injured employees, but incidents involving three or more hospitalizations must be reported. If the injured employee later dies in the hospital due to injuries sustained on the job, TOSHA might not receive that information. Also, TOSHA may not require the reporting of deaths that occur 30 days after a workplace injury.

Fatality investigations are summarized by TOSHA on an OSHA-170 form. Whether a case is investigated on the job location or over the telephone is determined by the nature of the fatality. Deaths due to natural causes, such as heart attacks, are considered unrelated to the employee’s job responsibilities, and generally do not lead to a worksite investigation. For deaths arising from the employee’s job duties, a worksite investigation is conducted by TOSHA. The primary purpose of the investigation is to determine if safety standards were violated, and to conduct interviews with company management and staff, and with the family of the deceased.

After a workplace fatality is investigated by TOSHA, documentation and communication between TOSHA and OSHA is less defined. The information that TOSHA collects regarding a workplace fatality does not immediately get reported to OSHA. Interviewed by a student, an employee at TOSHA noted that TOSHA and OSHA have different reporting cycles. This means that workplace fatality data for Tennessee are reported to the public and reported to OSHA at
different times of the year. OSHA may collect or update their reporting systems at different times of year than TOSHA. Unlike a state-of-the art epidemiologic surveillance system, TOSHA does not provide reports to OSHA automatically, on an ongoing basis. At any point in time, TOSHA and OSHA may have different case counts, resulting in some of the discrepancies noted in this report.

LIMITATIONS OF OCCUPATIONAL INJURY AND ILLNESS DATA FOR TENNESSEE. According to a 2009 report of the federal Government Accountability Office (GAO), the existing infrastructure for collecting occupational safety and health statistics does a poor job capturing information about the health of the nation’s workforce. Currently mandated statistical collection activities are grossly inadequate. The report highlighted fear as a factor that prevents many employees from self-reporting occupational injuries or illnesses (GAO, 2009; Wolfe and Fairchild, 2010). Fear may be worse in non-union jobs; union membership has declined since 1983 from 20.1% of the nation’s work force to a 2012 low of 11.3% (BLS, 2013). In addition, physician reporting requirements specific to occupational safety and health are absent in many states including Tennessee (TN 0800-1-3). These factors ultimately reduce the quality and quantity of available data on job injuries and illnesses.

In routinely surveying employers’ mandatory OSHA 300 Forms (29 CFR 1904.39-42), the federal Bureau of Labor Statistics (BLS) collects state-level fatal injury data by industry, worker characteristics, and cause of death. BLS also characterizes state-level non-fatal injury data by industry and cases involving days lost from work. Reportable occupational illnesses are also available at the state level. Other more specific data is compiled at the national level. According to a 2002 paper published in the American Journal of Public Health, the United States lacks a comprehensive occupational health surveillance system. The paper discussed the BLS’s reporting system but highlighted serious under-reporting problems due to the sheer number of “filters” an occupational illness or injury must pass to reach federal databases (Azaroff et al, 2002). For example, employees may be reluctant to take off time from work, thereby reducing the number of “lost workday” cases. In addition, cases of latent disease caused by an occupational exposure are unlikely to be reported on the employer’s OSHA 300 Form, if the employee has already left the job. Further, Tennessee state law appears to exempt small employers as well as entire sectors, such as funeral services/crematoria and medical laboratories, from reporting requirements (TN 0800-1-3.03).

The National Institute for Occupational Safety and Health (NIOSH) has made funding available to select states for specific occupational health surveillance projects including blood lead levels, occupational pesticide exposure (SENSOR), and job fatalities (Chaumont et al, 2012). The current NIOSH funding cycle, which focuses on “indicators” of occupational health and safety, includes 23 states and extends through 2015. Tennessee does not participate in the program. Among past and current NIOSH-funded occupational surveillance programs, Tennessee has only participated in the Adult Blood Lead Epidemiology and Surveillance (ABLES) program (CDC, 2013).
**Recommendations:**

**What Needs to be Done to Make Tennessee Workplaces Safer?**

**At the Federal Level**

**Congress Should:**

1. **Increase the maximum fines that state and federal OSHA can impose for serious violations.** The U.S. Congress should amend the Occupational Safety and Health Act to increase the maximum fines that state and federal OSHA programs can impose for serious violations of OSHA standards. The Protecting America’s Workers Act (S. 665) was re-introduced in the Senate on March 22, 2013. It would increase the maximum fines that state and federal OSHA programs can impose for serious violations of OSHA standards.

2. **Instruct OSHA to adopt a combustible dust standard.** Pending in the U.S. House of Representatives is H.R. 691, Worker Protection Against Combustible Dust Explosions and Fires Act of 2013, H.R. 691. It would give federal OSHA one year to issue an interim, expanded standard for combustible and explosive dusts.

3. **Enact immigration reform that includes strong on-going protections for immigrant whistleblowers, regardless of immigration status.** This report is being written at a moment when the chances for meaningful immigration reform are brighter than at any time in recent memory. Cases described in the report show all too clearly what a potent link exists between exploitation of immigrant labor and the undermining of health and safety conditions in American workplaces -- not just for immigrants, but for all workers. Congress should pass a version of immigration reform that includes protection and adjustment of status for immigrant whistleblowers and immigrant victims of criminal misconduct by employers.

**OSHA Should:**

1. **Adopt a combustible dust standard.** Pending in the U.S. House of Representatives is H.R. 691, Worker Protection Against Combustible Dust Explosions and Fires Act of 2013, H.R. 691. It would give federal OSHA one year to issue an interim, expanded standard for combustible and explosive dusts.

2. **Develop more effective ways to assure that immigrant workers are not subjected to unsafe and unhealthy conditions on the job, and require state plans to do the same.** Federal OSHA should continue to strengthen its efforts to combat dangerous and unhealthy working conditions in low-wage immigrant-heavy sectors of the labor market. Federal OSHA should
become more actively involved in helping immigrant victims of criminal misconduct at the hands of their employers to obtain immigration relief. The U.S. Department of Labor should strengthen and maintain the firewall it has begun to establish in collaboration with immigration officials to prevent conflicts between labor standards enforcement and immigration enforcement, and OSHA should require state plans to do likewise at the state level.

At the State Level

**TOSHA Should:**

1. **Impose more stringent penalties in cases where employer misconduct puts workers’ lives at risk.** TOSHA’s current practice of imposing small fines and frequently negotiating these even further downward in settlement discussions leads to fines that are far too low to serve as an effective deterrent.

2. **Use its existing authority to cite employers for “willful” violations when appropriate.** In cases of egregious and knowing employer misconduct, TOSHA should cite employers for “willful” violations. This category carries significantly higher penalties, and if TOSHA were willing to use this category more often and more in line with national practice, it would send a needed message to the employer community in Tennessee that disregard of employee safety and health will be treated more seriously than in the past.

3. **Launch an initiative to better protect Latino workers, reaching out to both employers and employees.** TOSHA should undertake a serious effort to understand and address the causes of disproportionate injury and death among Latino workers. Steps should include: hiring of more bilingual staff; outreach to workers with information about job hazards and their rights under OSHA; outreach to employers about their obligation to provide language-appropriate safety training for employees with limited English proficiency; pointed training and support for TOSHA investigators to better assure the effectiveness of investigations in immigrant-heavy workplaces; construction of a firm firewall between labor standards enforcement and immigration enforcement; and stronger fines for failure to train.

4. **Start building and using a more useful information base on occupational health and safety hazards in the state.** Tennessee health agencies should pursue opportunities to participate in epidemiologic surveillance projects sponsored by the National Institute of Occupational Safety and Health. Such projects would allow Tennessee to systematically collect, analyze, disseminate – and act upon – data about fatalities and cases of occupational illness that are affecting Tennessee workers, their families, and the state’s economy. Better coordination among state and federal agencies would, for example, allow targeting of resources to the most dangerous industries in Tennessee. It might also reduce the number of fatalities that go uncounted when the next Worker Memorial Day report is compiled.
5. Develop stronger rules and practices to assure effective investigations and to insulate all worker witnesses, regardless of immigration status, from intimidation or retaliation. TOSHA and any other governmental entity investigating a workplace fatality or serious injury should adopt and enforce procedures that better protect the integrity of investigations carried out under their authority. It should be the norm and not the exception in cases of serious injury or fatality that interviews with employee witnesses are carried out off-site and conducted in strict confidence. The managers or attorneys for an employer under investigation should not be allowed to sit in on an investigator’s interview with a worker.

The Tennessee General Assembly Should:

1. Set statewide procurement protocols to ensure the use of responsible contractors on public infrastructure projects. The General Assembly has the power to set across-the-board standards that all state and local public agencies responsible for infrastructure construction should follow. State level procurement guidelines should direct public agencies to give preference to contractors that demonstrate a commitment to workplace safety and workforce investment.

2. End the conflict it has created between labor standards enforcement and immigration enforcement. Under present law the Tennessee Department of Labor & Workforce Development has been tasked by the Tennessee General Assembly with conflicting duties. On the one hand, it is responsible for enforcing important worker protections that should and do apply to all workers regardless of immigration status. On the other hand, it is also supposed to enforce new state immigration enforcement programs focused on the workplace. The conflict will undermine health and safety on Tennessee worksites unless the General Assembly acts to end it. The most effective and straightforward approach would be for the legislature to reverse altogether its controversial decision to get into the business of immigration enforcement. At the very least it should instruct the Department of Labor to create a firewall between its now conflicting tasks.

The Tennessee Department of Transportation Should:

1. Reform the current TDOT prequalification process and procurement. TDOT should take internal steps to strengthen its prequalification process to prevent contractors with records of safety violations or worker abuse from being considered for TDOT projects. TDOT should reform its procurement process to promote contractors that have a demonstrated committed to providing their workers with a safe and healthy workplace. These are also the kinds of contractors who invest in their workforce in other ways, for instance, through serious safety and skills training, through decent benefits, and through a job that provides workers the opportunity for long-term construction careers.
2. Require that contractors penalized for serious safety violations in connection with worker fatalities on a public works project may maintain their contracts only if they change their ways. An employer that TOSHA finds to be guilty of a serious safety violation in connection with a workplace fatality should be allowed to maintain a TDOT contract only if it puts in place a credible safety and health plan that identifies hazards and implements preventive measures. TDOT should assess the adequacy of such a plan not only by consulting with contractors, but also by consulting with workers at the relevant job site, and doing so under circumstances that assure confidentiality and credibility of the consultations.

At the Local Level

City and county governments and other local public entities should:

Develop Contracting Policies that Reward Responsible Contractors. Special consideration should be given to contractors that provide workers with access to safety and skills training, healthcare and retirement benefits, a decent wage, and provide apprenticeship opportunities for long term careers. The same standards should apply to subcontractors on any public construction project. As stewards of local tax dollars, city and county governments have a responsibility to ensure that workers are receiving the maximum benefit from investments in public infrastructure.

At the Workplace

All employers should:

Develop comprehensive injury and illness prevention programs. Several U.S. states require that certain employers, particularly those in hazardous industries, develop comprehensive programs to identify hazards in the workplace and develop plans to reduce or eliminate these hazards. This practice has proven effective in reducing job injury and illness rates and should be adopted by all employers.
REFERENCES

AP, (January, 2013) “KUB contract worker who died Tuesday identified,”

Alund, Natalie Neysa (Oct. 2011), Deficient wall construction cited in fatal Gatlinburg Wastewater Treatment Plant collapse,

Alund, Natalie Neysa (Apr. 2011) “Two die when wall falls at Gatlinburg sewage treatment plant: Raw waste released into Little Pigeon River, Knoxville News Sentinel

Alund, Natalie Neysa. (2012). Contractor reaches settlement in Henley Bridge fatality
Knoxville News Sentinel


http://www.unprotectedworkers.org/index.php/broken_laws/index


http://www.cdc.gov/niosh/oep/statereports.html


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OSHA (1995) [Crowder Construction Company OSHA records]


OSHA (2011). Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents; Occupational Safety and Health Administration Instruction, CPL 02-01-052, 8 September

OSHA (2013) [W & O Construction OSHA records]


Smith, Rebecca and Eunice Hyunhye Cho (2013) Worker Rights on Ice: How Immigration Reform Can Stop Retaliation and Advance Labor Rights, National Employment Law Project, 2013,

TDCS (2011). Workplace Violence Prevention Guidelines; State of Tennessee Department of Children’s Services; Administration Policies and Procedures 4.29; 15 August

Tennessee Public Chapter 436, viewable at:

TOSHA Inspection # 315-202-093, René Mendez
TOSHA Inspection # 315-366-112, John Womac

TOSHA Inspection # 315-685-552, Solín Estrada-Jimenez

TOSHA Inspections # 316-483-676 and # 316-483-965, Abimael Contreras.


TOSHA (2012). Enforcement Procedures for Investigating or Inspecting Workplace Violence Incidents; Tennessee Occupational Safety and Health Administration Instruction, CPL-TN 02-01-052, 4 April 2012.

Accessed April 8, 2013


Additional Resources

**Bridges to Justice** is a worker and community alliance fighting to improve safety and working conditions for men and women who build Tennessee’s bridges and other public infrastructure.

P.O. Box 31111
Knoxville, TN 37930
E-mail: BridgestoJustice@gmail.com
(865) 919-0781

**East Tennessee State University College of Public Health** in Johnson City offers graduate and undergraduate degrees (BS, MSEH, MPH, PhD, DrPH) in environmental health, epidemiology and biostatistics, community health, and health services management and policy. Projects conducted in partnership with community organizations, along with other health disciplines like medicine and nursing, are a major area of emphasis. The College of Public Health is nationally accredited by the Council on Education in Public Health. [http://www.etsu.edu/cph/](http://www.etsu.edu/cph/)

**Interfaith Worker Justice** is a national coalition of faith communities that advocates for the well-being of all working people. We envision a nation in which workers enjoy the rights to safe working conditions, and to wages, healthcare, and pensions that allow them to live with dignity.

The Rev. Jim Sessions
Interfaith Worker Justice of East Tennessee
934 Weisgarber Rd.
Knoxville, TN 37920
(855) 584-7531;

**Ironworkers’ Local Union 384** is an affiliate local of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers. Local 384 represents workers who specialize in heavy rigging, structural and reinforcing steel, welding, and bridge construction.

1000 Buchanan Ave
Knoxville, TN 37917
(865) 689-3371

**Jobs with Justice of East Tennessee** is a coalition of faith-based and community-based organizations, labor unions, and individuals committed to social and economic justice for working people and their families in East Tennessee.

1124 N. Broadway
Knoxville, TN 37917
email: jwjoft@bellsouth.net
[www.jwjet](http://www.jwjet)
Laborers’ Local Union 818 is an affiliate local of the Laborers’ International Union of North America. As a construction union, Local 818 represents construction workers, radiology workers, hazardous waste workers, asbestos abatement workers and ground/maintenance workers.

10412 Lexington Drive
Knoxville, TN 37932
Phone: 865-966-2009
www.laborerslocal818.com/

National Council for Occupational Safety and Health provides national leadership in coordinating Workers’ Memorial Day activities by state and local COSH groups (Committees for Occupational Safety and Health).

112 S. Blount Street, Suite 103A Raleigh, NC 27601
2845 W. 7th Street, Room 206 Los Angeles, CA 90005
http://www.coshnetwork.org/

The Knoxville-Oak Ridge Area Central Labor Council, AFL-CIO, is an umbrella organization for local unions representing workers in different industries across 13 counties in East Tennessee.

1522 Bill Williams Ave.
Knoxville, TN 37917
Phone: 865-591-2300
http://tn.aflcio.org/391/

United Support and Memorial for Workplace Fatalities is a support group made up of empathetic families who have been there and understand the emotions and questions you may have regarding the loss of your family member. Tammy Miser Founding President and Executive Director.

USMWF.ORG, Inc.
2837 Yellowstone PKWY
Lexington, KY 40517
http://usmwf.org